

Freedom of Information - Port Authority Policy and Procedure

In 1977, the Committee adopted a policy for access by the public to records maintained by the Port Authority. While based on the policy theretofore declared by the States of New York and New Jersey, with respect to access by the public to public records, inasmuch as the respective New York and New Jersey statutes differed (and continue to differ) as to certain policy, particulars and provide for different procedures for implementation of the policy, it was deemed desirable for the Committee to adopt a separate Port Authority Policy and Procedure. In light of action now being taken by the Board with respect to open public meetings, it is appropriate at this time to restate the basic principles and reflect necessary procedural changes.

Pursuant to the foregoing report, the following resolution was adopted with Commissioners Burgos, Hellmuth, Henderson and Kaltenbacher voting in favor; none against:

RESOLVED, that government, including the activities and decisions of The Port Authority of New York and New Jersey (and its wholly-owned subsidiary corporations) is the public's business and therefore the public should have access to the records of the Port Authority (and its subsidiaries) as herein provided for; and it is further

RESOLVED, that the resolution of the Committee on Operations adopted on September 28, 1977, regarding Freedom of Information (which resolution appears at pages 12 et seq. of the Committee Minutes for that date) shall be, and it hereby is, rescinded; and it is further

RESOLVED, that all records of the Port Authority (and its subsidiaries), including records stored electronically such as on computer tapes or disks, shall be made available for public inspection and copying, except that such access may be denied as to records or portions thereof which:

- (1) are rendered confidential or privileged or are exempted from disclosure by Federal or state law or regulations or rules of court;
- (2) if disclosed, would constitute an unwarranted invasion of personal privacy (including personnel, medical, or disciplinary records, and any lists of names and addresses to be used for profit or financial gain);
- (3) if disclosed, would impair present or future awards or negotiations, including collective bargaining or negotiations, of leases, permits, contracts, or other agreements;
- (4) are trade secrets or are maintained for the regulation or supervision of commercial enterprise which, if disclosed, would cause injury to the competitive position of the enterprise;

- (5) are compiled for public safety, law enforcement, or official investigatory purposes (internal or external) when their disclosure may affect public safety, interfere with internal investigations, audits, law enforcement investigations, or judicial or disciplinary proceedings, or deny or prejudice a right to a fair trial or impartial adjudication, or identify a confidential source or disclose confidential information relating to an audit or a civil, criminal, or internal or external disciplinary investigation;
- (6) if disclosed, would endanger the life or safety of any person;
- (7) are inter-agency or agency materials other than statistical or factual tabulations of data, provided that instructions to staff that affect the public or final agency policy or determinations are not exempted;
- (8) are examination questions or answers which are requested prior to final administration of such questions; or
- (9) could affect or impact the competitive economic position of the Port District, the Port Authority, or specific business entities with which the Port Authority deals;

and it is further

RESOLVED, that the Secretary of the Port Authority shall maintain a current list of subject nature and category of all records in the possession of the Port Authority (and its subsidiaries) whether or not they are available for public copying and inspection, and the Secretary shall, under the direction of the Executive Director, administer the following rules and regulations with respect to public inspection and copying of available records:

Procedures

- (a) Requests for inspection or copying of public records of the Port Authority shall be made to the Secretary of the Port Authority upon a form prescribed by the Port Authority and shall contain sufficient information to identify the particular record sought. Such requests shall be made either:
 - (1) in person during regular business hours at the Port Authority's main office at One World Trade Center, Room 67W, New York, New York 10048, or
 - (2) by mailing such request, postage prepaid to said Secretary, The Port Authority of New York and New Jersey, at the aforesaid address, Attention: FOI Administrator.

(b) Upon receipt of a request, the Secretary of the Port Authority shall promptly determine whether or not the record requested can be made available and will notify the person making the request of such determination. If the request is granted, such person shall also be notified where and when the record will be made available. The Port Authority will provide an opportunity for inspection and copying of the record.

(c) The record may be inspected only under the supervision of the Secretary of the Port Authority or such other officer or employee as may be designated by the Secretary in the Office of the Secretary during regular business hours or at such other times or places as the Secretary deems convenient.

(d) (1) Documents which are to be copied will be copied by the Port Authority, if practicable, and the person requesting a copy will be charged a fee equal to the Port Authority's cost but no less than 25 cents for each page of the first ten, 15 cents for each page of the second ten, and 10 cents for each additional page. If it is not practicable for the Port Authority to copy such documents, they will be copied commercially and the person requesting the copy will be charged a fee equal to the Port Authority's cost of such commercial reproduction. Documents which have been purchased by the Port Authority commercially (such as stenographic transcripts) may be copied and the person requesting the copy will be charged a fee of no less than the amount paid by the Port Authority for such documents.

(2) A fee of no less than two dollars will be charged for certification by the Secretary of the Port Authority as to authenticity of any document, or that a record of which the Port Authority is legal custodian cannot be found.

(3) In the event a search for records requested requires more than one person hour, or in the event a search of computer records requires programming which would take more than one person hour, a fee will be charged at the rate of not less than five dollars per hour, or any part thereof, per person assigned to such search or programming.

(4) All such fees shall be paid by the person making the request in cash, certified check, or cashier's check, in advance or at the time of the delivery of any record for inspection or copies of any records or certificate referred to in this procedure.

(e) The Secretary of the Port Authority, or the Secretary's designee, shall respond to each request within ten business days of the receipt thereof. The response shall provide reasons for denial of access or copying or a statement of the time and place when the record requested will be made available.

Appeals

(a) Any person who is denied access to a public record of the Port Authority (or its subsidiaries) by the Secretary of the Port Authority may file an appeal from such denial with the Port Authority's General Counsel (who serves as Counsel to the subsidiaries).

(b) Such appeal shall be accompanied by a memorandum in support thereof setting forth the reasons why the appellant is entitled to access to the record requested.

(c) Appeals pursuant to this procedure shall be decided by General Counsel or his designee. If the appeal is denied, the reasons therefor shall be explained fully in writing within seven business days of the date on which such appeal is received by General Counsel.